



U.S. Department of Justice

Federal Bureau of Investigation

Office of the Director

Washington, D.C. 20535-0001

April 29, 2016

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH:

THE DEPUTY ATTORNEY GENERAL

THROUGH:

Lee J. Lofthus
Assistant Attorney General
for Administration

FROM:

James B. Comey
FBI Director

SUBJECT:

National Domestic Communications Assistance Center
(NDCAC) Renewal of Executive Advisory Board (EAB)
Charter

PURPOSE:

To request approval for the renewal of the NDCAC EAB
Charter required under the Federal Advisory Committee Act
(FACA), as amended, 5 U.S.C. App. 2.

TIMETABLE:

As soon as possible

SYNOPSIS:

The Department of Justice (the Department) first approved the NDCAC EAB Charter in July 2014. That approval was in accordance with the FACA, as amended, 5 U.S.C App. 2, and as such, is limited in duration to two years. The membership of the NDCAC EAB was just selected on February 19, 2016, and must operate under the authority of a valid Charter to continue its work. The FBI requests the Attorney General approval for the renewal of the NDCAC EAB Charter.

DISCUSSION:

The FBI is requesting the approval for the renewal of the NDCAC EAB Charter to continue its work of providing advice and recommendations that "promote public safety and national security by advancing the NDCAC's core functions." A September 13, 2011, Attorney General memorandum was approved that established a state and local law enforcement majority on the EAB.

On January 18, 2013, the Department opined that the NDCAC EAB was subject to the FACA. On July 29, 2014, the Attorney General approved the initial EAB Charter for two years, the

Subject: National Domestic Communications Assistance Center
(NDCAC) Renewal of Executive Advisory Board (EAB) Charter

maximum length of time allowed under the FACA and identified its duration as "continuing." On February 19, 2016, the membership of the EAB was selected, but the EAB has not held its initial administrative meeting nor reached operational status. The renewal of the Charter is necessary for the EAB to continue its work. As such, the FBI and other Department components' agencies (i.e., Bureau of Alcohol, Tobacco, Firearms and Explosives; Drug Enforcement Administration; and United States Marshals Service) have reached consensus on the need for the NDCAC EAB to continue operating and for its Charter to be renewed for an additional two years in accordance with Section 14 of FACA.

NDCAC Leadership and Executive Advisory Board

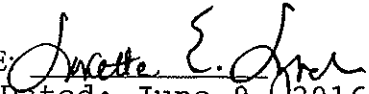
The day-to-day management of the NDCAC is the responsibility of an NDCAC Director and Deputy Director(s) appointed by the Attorney General or her designee. The NDCAC EAB is organized under the FACA. The FACA governs the establishment, operation, and termination of advisory committees within the executive branch. It states that "advisory committees shall be utilized solely as advisory functions. Determination of actions to be taken . . . shall be made solely by the President or an officer of the Federal Government." Accordingly, the EAB serves as an advisor to the Attorney General and the NDCAC Director, and provides non-binding input. The objective of the EAB is to make recommendations to the Attorney General or her designee on issues such as the selection of the NDCAC Director and Deputy Director(s), and the charter, mission, strategic priorities, and operations of the NDCAC. Its mission also includes providing advice to the NDCAC Director on policies, priorities, administrative structure, operational procedures, relations with law enforcement agencies and industry, and other such matters.

The majority state and local law enforcement agency representatives on the EAB gives such entities a prominent role in advising the Attorney General on the NDCAC and ensures greater consideration of state and local concerns by the Director of the NDCAC. It gives the NDCAC greater credibility among state and local agencies, makes clear the Department's continued commitment to addressing their needs, and builds trust that encourages their active involvement in NDCAC programs and activities.

Subject: National Domestic Communications Assistance Center
(NDCAC) Renewal of Executive Advisory Board (EAB) Charter

RECOMMENDATION:

In light of the foregoing considerations, the FBI recommends that the Attorney General approve the renewal of the NDCAC EAB Charter to ensure the continued efforts of a functioning EAB and full participation of the state and local law enforcement community.

APPROVE: 
Dated: June 9, 2016

Concurring Components:
None

DISAPPROVE: _____

Nonconcurring Components:
None

OTHER: _____

Attachments